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BEFORE THE ARIZONA CORPORAT

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IN THE MATTER OF:

MICHAEL J. BLAKE (CRD# 2022161) a  
married man,DOCKET NO.  
S-20898A-13-0395

At: Phoenix, Arizona

Date: April 23, 2014

Filed: MAY - 8 2014

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## VOLUME II

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Arizona Corporation Commission

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1           BE IT REMEMBERED that the above-entitled and  
2 numbered matter came on regularly to be heard before the  
3 Arizona Corporation Commission, in Hearing Room 1 of  
4 said Commission, 1200 West Washington Street, Phoenix,  
5 Arizona, commencing at 9:57 a.m. on the 23rd of April,  
6 2014.

7

8

BEFORE:   MARC E. STERN, Administrative Law Judge  
9

10 APPEARANCES:

11

For the Arizona Corporation Commission Securities  
12 Division:

13

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16 For the Applicant:

17

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19

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22

23

KAREN L. KESSLER, RPR  
Certified Reporter  
Certificate No. 50821

24

25

1 ALJ STERN: We're back on the record after a  
2 prehearing delay while the parties tried to resolve  
3 something.

4 In any event, we'll take appearances for the  
5 Division.

6 MR. HUYNH: Good morning, Your Honor. Phong  
7 Paul Huynh on behalf of the Division.

8 ALJ STERN: And with respect to the respondent?

9 MR. SALCIDO: Your Honor, Michael Salcido here  
10 for Mr. Blake.

11 ALJ STERN: Okay. Again, we're resuming the  
12 session in the matter of Michael Blake.

13 And at this time, I don't know where we are.  
14 Are we done with testimony, direct testimony from your  
15 witness at this point?

16 MR. SALCIDO: Well, Your Honor, based on some of  
17 the testimony that he gave yesterday, Mr. Blake found  
18 some, four or five more exhibits, more documents that  
19 relate to it. I sent copies to the Securities Division,  
20 and I would like to enter those into evidence and  
21 question him briefly about these exhibits.

22 And they are mainly about -- there was issues  
23 whether he was, disclosed this outside business  
24 activity, and he found outside business activity  
25 questionnaires for the years 2009, 2010, 2012. And, and

1 then there is also some, some correspondence with his  
2 firm in, I believe, 2012 about this outside business  
3 activity. And I marked them, and I don't know if Paul  
4 has any objections to them being admitted. And if  
5 they're admitted, I would just like to question him  
6 briefly on those documents.

7 ALJ STERN: Do we have enough copies for the  
8 court reporter?

9 MR. SALCIDO: Yes.

10 ALJ STERN: How about some for me?

11 MR. SALCIDO: Yes.

12 ALJ STERN: You've got some for me too?

13 MR. SALCIDO: Yes.

14 ALJ STERN: Mr. Huynh, what is your position on  
15 that?

16 MR. HUYNH: Judge, my position is I wouldn't  
17 oppose if you believe they are relevant. But the  
18 concern I have is these are all after the date of the  
19 '06 to '08 timeframe that we have been questioning, that  
20 that is the relevant timeframe that he should have  
21 disclosed this information to his broker/dealer, not in  
22 the '09 timeframe right around, or after the FINRA  
23 investigation occurred that this started getting  
24 disclosed.

25 But that is my concern on it that it's going to

1 be then used to show, well, it was done for those years  
2 that we don't have information on.

3 ALJ STERN: Do we have information on the '06 to  
4 '08 years?

5 MR. HUYNH: We don't have any information.

6 ALJ STERN: Okay. Other than the witness's  
7 testimony, I think.

8 The question is here, again, you know, I don't  
9 think there's any harm in seeing that there's  
10 disclosure. There was definitely, what I can remember,  
11 I think it was 2002, yesterday that we were discussing.  
12 So it's hard to say somebody didn't know about this.  
13 And I would be -- still the biggest stumbling block is  
14 the, that self-regulatory organization order based on  
15 their agreement to resolve the issue of the selling  
16 away, and that's what triggers the Division's action, if  
17 I remember, under A.R.S. 44-1962.

18 And even though I sort of, like I say, I may  
19 disagree whether there was really a sale here, but that  
20 isn't the issue, I guess. We still have to look at 1962  
21 and decide on that. There is some language in there  
22 that the Commission can make up it's mind what it wants  
23 to do ultimately.

24 In any event, yeah, let's, we'll deal with your  
25 additional exhibits.

1 MR. SALCIDO: Now, I think you were about to  
2 question Mr. Blake. Would you like to do that before I  
3 put these additional exhibits in?

4 MR. HUYNH: Well, I wasn't done with my direct.

5 MR. SALCIDO: Oh, okay.

6 MR. HUYNH: Or my cross of Mr. Blake either,  
7 Your Honor.

8 ALJ STERN: Well, you know, we'll put him back  
9 on the stand and let's just do these exhibits, and you  
10 can --

11 MR. HUYNH: You bet.

12 ALJ STERN: Did you -- let me see. Mr. Huynh,  
13 you started with cross, and I think you -- all right.

14 Do you still have some more questions for him?

15 MR. HUYNH: I do, Your Honor. And then, but  
16 before, before we --

17 ALJ STERN: Excuse me. We can treat, we can do  
18 the additional exhibits as redirect, and if you have  
19 recross we can do that too; it's either/or.

20 MR. HUYNH: Whichever is fine. I mean, we can  
21 just let Mr. Salcido go back and ask his questions. I  
22 think that might be the most efficient way to do it  
23 then.

24 ALJ STERN: Okay. You know what, as I think  
25 about it, when I read these transcripts it's better



1 probably not to break in.

2 I think what we'll do, Mr. Salcido, is we'll let  
3 Mr. Huynh do some more of his questioning. When he  
4 reaches a point where he's done, you'll say, well, we  
5 have these additional exhibits, da, da, da, and then it  
6 will be like any questions you want to do on redirect,  
7 but you can do your questions on the new exhibits, then,  
8 on redirect.

9 MR. SALCIDO: That makes sense. Thank you.

10 ALJ STERN: Okay. So, Mr. Huynh, let's have  
11 your additional cross-examination.

12 MR. BLAKE: Am I still sworn?

13 ALJ STERN: You've been sworn in. Have a seat.

14 MR. HUYNH: Your Honor, we actually have one  
15 more preliminary matter.

16 ALJ STERN: Okay.

17 MR. HUYNH: The Division would actually like to  
18 call rebuttal witness, at least Ms. Pamela Pont, based  
19 on some of the statements made by Mr. Blake yesterday to  
20 rebut some of his testimony, and regarding the  
21 transactions related to Longest Drive. We would ask to  
22 be able to put on Ms. Pont today after Mr. Blake's  
23 testimony.

24 ALJ STERN: When are you going to call Ms. Pont?

25 MR. HUYNH: She's willing to show up at 10:30

1 today and be available to take the stand after  
2 Mr. Blake.

3 ALJ STERN: Okay. Well, we are assuming we'll  
4 be done with him. She may have to wait a few minutes,  
5 but we might be okay. Let's go ahead --

6 MR. SALCIDO: Your Honor, I guess I would say  
7 that their list of witnesses does say rebuttal  
8 witnesses, doesn't list Ms. Pont. That's one thing.

9 Number two, we shouldn't be retrying this case.  
10 I mean they opened the door to retry this case, and then  
11 Mr. Blake defends himself, and now they're going, oh, no  
12 we have to bring somebody in. I mean, it is getting a  
13 little out of hand.

14 ALJ STERN: Well, I understand your argument.

15 Mr. Huynh, we are going to the underlying issue  
16 of what, you know, like I say, we spent some time  
17 yesterday going into the background of what happened and  
18 then FINRA, we still have that FINRA order, the actual,  
19 you know, and maybe it's my own fault, the issue of just  
20 having questioning regarding how these things worked,  
21 you know, what amount of funding people invested in  
22 these things and maybe what they earned.

23 I don't even know -- I guess out of the 11  
24 investments eight of them worked out well and three of  
25 them didn't work out so well. That's one thing I know.

1 But I never did hear what kind of a return were people  
2 getting on these investments. But I guess that's really  
3 not an issue since there's a FINRA order out there.

4 MR. HUYNH: Yes, Your Honor. I mean, our basis  
5 is the statutory grounds of the FINRA order. We just  
6 thought it's just fair to be able to paint a fuller  
7 picture based on some of the statements Mr. Blake said,  
8 his role in the transactions, how the transactions  
9 occurred, and the information provided to these  
10 individuals. We believe Ms. Pont will rebut some of  
11 that information and testimony, and believe that will  
12 weigh into the decision, or factors that you are going  
13 to take into this case based on the questioning  
14 yesterday. That's why we asked, or are making that  
15 request.

16 ALJ STERN: Well, let's conclude, and we'll see  
17 where we end up with Mr. Blake's testimony today. I'll  
18 take this matter of the additional witness under  
19 advisement presently and I'll think about it.

20 MR. HUYNH: Thank you, Your Honor.

21 ALJ STERN: Go ahead.

22 ///

23 ///

24 ///

25 ///

1                   MICHAEL JAMES BLAKE,  
2   Called as a witness on behalf of the Respondent, having  
3   been previously sworn by the Certified Reporter to speak  
4   the truth and nothing but the truth, was examined and  
5   testified as follows:

6

7                   CONTINUED CROSS-EXAMINATION

8   BY MR. HUYNH:

9       Q.       Good morning, Mr. Blake. You know, since we  
10   broke yesterday, I'd like to just kind of go back and do  
11   a brief review or synopsis just to make sure we're --  
12   figure out where we kind of left off yesterday.

13               I think, if you would, let's go back to Longest  
14   Drive, LLC. And if you would, let's bring up Exhibit  
15   S-4, I believe. And do you have that exhibit in front  
16   of you, Mr. Blake?

17       A.       I do.

18       Q.       Okay. So if we are looking at S-4a, that's the  
19   articles of organization for Longest Drive, LLC, right?

20       A.       Correct.

21       Q.       And you've been a member or manager of Longest  
22   Drive since 2002, correct?

23       A.       That is correct.

24       Q.       All right. And then in '09 there was a slight  
25   amendment made to it where you added yours and your

1 wife's trust as a member of Longest Drive, LLC, correct?

2 A. That is correct.

3 Q. All right. And there hasn't been any other  
4 additional amendments to Longest Drive at this point in  
5 time, right?

6 A. No, there has not. There's been no activity in  
7 Longest Drive other than filing taxes.

8 Q. Okay. Now, we talked about when the  
9 transactions with Grace Communities occurred you would  
10 receive monies or checks from these clients or investors  
11 written out to Longest Drive, LLC, correct?

12 A. That's correct.

13 Q. And it went into a deposit in an account of  
14 Longest Drive, correct?

15 A. That's correct.

16 Q. And then you wrote a check from Longest Drive's  
17 bank account to Grace Communities, or whatever LLC  
18 entity they set up, right?

19 A. We always wrote it to the LLC.

20 Q. And you always wrote those checks to, from  
21 Longest Drive to the LLC or Grace Communities project,  
22 right?

23 A. Yes, I did.

24 Q. Now, the way that the investors would get paid  
25 out, is that because the anticipation was they were a

1 member of Longest Drive, LLC now?

2 A. Yes.

3 Q. Okay. And when you wrote a check to Grace  
4 Communities or the Grace Communities projects, and -- we  
5 may have an example of it here. It might take me a  
6 second, but you would either get some type of interest  
7 in that real estate project -- and when I say you, I  
8 should actually clarify -- Longest Drive, LLC would get  
9 an interest in that real estate project.

10 A. Yes.

11 Q. Okay. And so it would always be in the LLC's  
12 name, not any individual's name, correct?

13 A. That's correct.

14 Q. All right. But according to the, you know,  
15 organization documents, though, the, at some point in  
16 time by 2007 or 2008, there were 28 individuals who  
17 began investing in the various Longest Drive, LLC  
18 projects.

19 A. That's correct.

20 Q. But they're not at anywhere reflected on any of  
21 these updated amendments or articles of organizations,  
22 correct?

23 A. That is correct.

24 Q. So they really don't have an official or  
25 technically a legal interest in Longest Drive, LLC,

1 then?

2 A. I always thought they did. I didn't know that  
3 they had to be -- I didn't know I had to file something  
4 with the State. I mean if you looked at our original  
5 Longest Drive documents, we pulled them off the  
6 Internet.

7 Q. Because the question I have is, I mean, how  
8 would one of these investors, say a Pam Pont, come and  
9 enforce her interest in either -- when Grace Communities  
10 project went belly up -- or wanted to, you know,  
11 exercise her interest in the LLC?

12 A. Sure. She had an account statement from Longest  
13 Drive.

14 Q. Okay.

15 A. You referenced those yesterday.

16 Q. But she didn't have any like legal document that  
17 she could point to to say, hey, I'm officially a member  
18 here and I have certain voting rights or membership  
19 rights, or anything like that, correct?

20 A. I treated them that way. I just didn't know I  
21 had to document that.

22 Q. But you didn't have any document that she could  
23 do that to?

24 A. That's correct. But, also, neither did the  
25 first eight projects, and they were all paid out

1 proportionately.

2 ALJ STERN: I'm going to interject.

3 So the only -- there's three projects that  
4 haven't paid off. So were those the last three?

5 THE WITNESS: It was the last three. They're  
6 still ongoing, yes.

7 ALJ STERN: Go ahead.

8 BY MR. HUYNH:

9 Q. So if something were to happen to these real  
10 estate projects and, you know, for whatever reason,  
11 maybe at foreclosure or, you know, try to file a lawsuit  
12 against Grace Communities or those LLCs, you would have  
13 to do it on their behalf on the part of the LLC,  
14 correct?

15 A. Correct.

16 Q. And so they basically have to rely on you to  
17 choose whatever legal interest or make whatever actions  
18 that you thought were appropriate to try to get back  
19 their payment?

20 A. I wouldn't have did that without consensus, but  
21 yes I would. Excuse me.

22 Q. Now -- I'm sorry.

23 A. One other thing that they did have is also that  
24 they did have a K-1 issued to them each year, which  
25 showed their interest, in which project, and that was



1 filed with the IRS.

2 ALJ STERN: Just so the record is clear, and I'm  
3 not entirely clear. That's, a K-1 is a, an IRS,  
4 Internal Revenue Service filing or --

5 THE WITNESS: For members of an LLC.

6 ALJ STERN: It's a statement from the LLC that  
7 shows income, is that --

8 THE WITNESS: Income or loss, yes.

9 ALJ STERN: Income or loss.

10 THE WITNESS: Yes.

11 ALJ STERN: You file it along with your tax  
12 return, right?

13 THE WITNESS: We receive a 1065.

14 ALJ STERN: From?

15 THE WITNESS: Tax, from the LLC, from  
16 Romeoville. And then we, then that's -- but we hire a  
17 third party CPA firm, they then generate the K-1s for  
18 each member. So each member has an ongoing statement of  
19 what they have also.

20 ALJ STERN: So Longest Drive got a 1065 and then  
21 you turned around, had your accountant issue the --

22 THE WITNESS: Uh-huh.

23 ALJ STERN: -- K-1s --

24 THE WITNESS: Correct.

25 ALJ STERN: -- to the individual investors.

1 THE WITNESS: Correct.

2 BY MR. HUYNH:

3 Q. And, Mr. Blake, on those K-1s, do you recall  
4 when the first K-1s started being distributed to the  
5 investors? Do you remember what year?

6 A. Probably 2005 was the first project that was  
7 paid out.

8 Q. Okay. Now, as we talk about the last three, the  
9 Romeoville, the Deer Park, and the Burr Ridge  
10 projects --

11 A. Yes, sir.

12 Q. Do you remember when K-1s went out for one of  
13 those --

14 A. They have gone out every year that those  
15 projects have been up and running.

16 Q. Okay. And were there any profits ever recorded  
17 on any of those K-1s?

18 A. There has not been. There's been losses.

19 Q. It's been losses each year?

20 A. Yes, sir.

21 ALJ STERN: You mean those last three?

22 THE WITNESS: Yes, sir.

23 ALJ STERN: Let me ask you a question, since  
24 you're talking profits and losses. Okay?

25 Just pretend I'm one of the 28. I gave you --

1 was there a minimum investment amount?

2 THE WITNESS: No, sir.

3 ALJ STERN: So I could come to you and say hey,  
4 I have \$10,000, could I invest in Longest Drive?

5 THE WITNESS: Which is why we set up Longest  
6 Drive, because they couldn't go and invest that on their  
7 own, so we pooled the money, yes.

8 ALJ STERN: So initially started out friends  
9 pooling their money, or you and your three golf buddies,  
10 I assume, with a name like Longest Drive --

11 THE WITNESS: Yeah. Friends of mine for life,  
12 yes.

13 ALJ STERN: Okay. So the three, with four of  
14 you, you could put enough money together and you could  
15 get into one of these limited partnerships, or whatever  
16 they were --

17 THE WITNESS: Yes.

18 ALJ STERN: Grace, or whatever their name was --

19 THE WITNESS: Right.

20 ALJ STERN: -- doing these office condominiums.  
21 So, in other words, you could accept anybody who would  
22 bring in the money to Longest Drive; they get their  
23 proportionate share of the particular project that's  
24 being developed. Is that the way it worked?

25 THE WITNESS: That is correct.

1 ALJ STERN: So if my \$10,000 only amounted to  
2 one-tenth of one percent of Longest Drive's investment,  
3 let's say, when it paid off I'd get one-tenth of one  
4 percent of the profits plus my \$10,000 back?

5 THE WITNESS: Yes, sir.

6 ALJ STERN: Is that the way it worked?

7 THE WITNESS: And each year the K-1 would  
8 reflect your proportionate share of any profit or loss  
9 in that given year, yes, sir.

10 ALJ STERN: Okay. So the \$10,000 might, for  
11 instance, in the case of the last three investments just  
12 still be sitting there in those particular  
13 partnerships --

14 THE WITNESS: That's correct.

15 ALJ STERN: Are they partnerships? Is that what  
16 they are?

17 THE WITNESS: They're LLCs.

18 ALJ STERN: They're LLCs.

19 THE WITNESS: Yes, sir.

20 ALJ STERN: Go ahead, Mr. Huynh.

21 BY MR. HUYNH:

22 Q. Mr. Blake, briefly, let's talk about Romeoville.  
23 And on S-19a, if that will help you, if you want  
24 to bring that exhibit up?

25 A. I have it.

1 Q. So let's go back and clarify. So, for example,  
2 Romeoville, was this a project where Grace Communities  
3 was seeking about \$200,000 total?

4 A. I don't know how much in total they were -- I  
5 don't remember how much they were seeking, but they had  
6 \$200,000 that we were able to take.

7 Q. Okay.

8 A. Yes.

9 Q. And so you combined, I think you invested  
10 100,000 in this Romeoville --

11 A. I did, yes.

12 Q. -- project. And the other two parties put  
13 \$50,000 each?

14 A. Yes.

15 Q. And so you pooled the money together as a group  
16 and then sent it off to Grace Communities, correct?

17 A. That's correct.

18 Q. All right. And so you were able, you made the  
19 investment and everybody made the investment as a pool,  
20 pooling of money?

21 A. Yes.

22 ALJ STERN: So that investment was just you and  
23 your wife, Pamela Pont, and this other gentleman?

24 THE WITNESS: And Dan Gallagher, yes.

25 ALJ STERN: So that made your \$200,000 --

1 THE WITNESS: Yes, sir.

2 ALJ STERN: And Grace Communities or Romeo  
3 office, whatever, it agreed to take your \$200,000 for  
4 your share of whatever it was?

5 THE WITNESS: Correct.

6 ALJ STERN: What kind of percentage profits were  
7 you expecting out of these things?

8 THE WITNESS: The pro forma was 80 percent. In  
9 less than 24 months.

10 ALJ STERN: I guess that's why people want to do  
11 these kinds of investments.

12 THE WITNESS: Yes. Well, real estate was  
13 exploding in the 2004, '5 and '6 timeframe, yes.

14 ALJ STERN: Okay. Go ahead, Mr. Huynh.

15 MR. HUYNH: No problem.

16 BY MR. HUYNH:

17 Q. Now, Mr. Blake, let's say for the Romeoville  
18 project, was this project, you know, secured by any real  
19 estate when you gave the \$200,000 to Grace or to  
20 Romeoville, LLC, whatever that was?

21 A. Well, it was secured through the LLC, and we had  
22 a percentage of that, and they, they did own the land at  
23 one time, yes.

24 Q. Okay. But I guess, maybe I should clarify my  
25 question. As part of the 200,000 you gave to, generally

1 I'm going say, Grace Communities --

2 A. Yes.

3 Q. -- did you or the Longest Drive, LLC get back  
4 some type of a deed of trust or some type of an  
5 agreement where, at least, your part of the investment  
6 was secured by real estate?

7 A. We did get an operating agreement, but it wasn't  
8 secured by the real estate, no.

9 Q. Okay. An operating agreement for what, the  
10 Romeoville LLC that was set up?

11 A. Yes. Yes.

12 Q. Okay. And when you say you, you mean Longest  
13 Drive --

14 A. Longest Drive did. Longest Drive did.

15 Q. And so that would be Longest Drive's percentage  
16 of the equity interest for that real estate project?

17 A. That is correct.

18 Q. Okay. And, and basically the same format  
19 occurred for Deer Park and Burr Ridge too then?

20 A. For every project, correct.

21 Q. Pooled money together, sent it --

22 A. Yes, sir.

23 Q. Okay. Now, for the Grace Communities, you know,  
24 transactions, besides the subscription agreement, did  
25 they also give you, you know, like a private placement

1 memorandum for each of their real estate transactions or  
2 deals?

3 A. Yes, they did.

4 Q. Okay. On those, you know, private placement  
5 memorandums, did they, you know, have any document or  
6 forms stating whether or not you had to be an accredited  
7 investor or, you know, kind of asking about financial  
8 background or --

9 A. Yes, they did.

10 Q. Okay. And did you fill out those documents and  
11 forms when you made the investments?

12 A. Yes, I did.

13 Q. Now, did you fill it out individually for  
14 Longest Drive, LLC?

15 A. For Longest Drive, LLC.

16 Q. And what about each of the underlying investors  
17 in the deal? For example, Romeoville, did Ms. Pont fill  
18 out that same form?

19 A. She did not because she wasn't an individual  
20 investor in Romeoville.

21 Q. Okay. What about Mr. Gallagher? Did he fill  
22 out an accredited investor form or anything like that?

23 A. He did not. He was not an individual investor  
24 in Romeoville.

25 Q. Okay. So on all three real estate deals, none



1 of the individual underlying investors signed those  
2 specific documents; is that correct?

3 A. That's correct.

4 Q. You did, though, on behalf of the LLC?

5 A. That's correct.

6 Q. Okay. And what was your basis in terms of --  
7 what did you check off to show that the LLC was  
8 accredited? Do you recall?

9 A. I do not recall. Well, there's a line item in  
10 there regarding LLCs, partnerships and, yes.

11 Q. Okay.

12 ALJ STERN: So you signed the subscription  
13 agreement on behalf of Longest Drive.

14 THE WITNESS: I did. I did. And just to  
15 clarify, Pam Pont and Dan Gallagher, and every other  
16 investor, also received the same package that Longest  
17 Drive received. So they had that, and inside there is  
18 all the risks and the pro formas, everything is inside  
19 that. They got the same package as Longest Drive. So  
20 before they made the investment, they did have that  
21 package.

22 BY MR. HUYNH:

23 Q. Okay. Is there -- did you like keep notes or  
24 something like that to evidence that you provided those  
25 documents and when you provided it to each individual?

1 A. Yes, I did.

2 Q. Okay. Oh, you did.

3 How did you keep those notes? Was it in --

4 A. I have a copy of Pam Pont's if you'd like to see  
5 it.

6 Q. Okay.

7 A. That's my only copy.

8 ALJ STERN: What is that, Mr. Huynh? It's a  
9 copy of what?

10 MR. HUYNH: Yeah, Your Honor, may I approach?

11 ALJ STERN: Sure.

12 (Brief Pause.)

13 ALJ STERN: Okay. So this is a -- she received  
14 a package regarding the investment in Romeoville?

15 THE WITNESS: That's correct. That's correct.

16 And inside that package is the risk analysis and, I  
17 think I saw that in one of your --

18 ALJ STERN: Okay. All right.

19 BY MR. HUYNH:

20 Q. Now, we talked real briefly -- I saw on Exhibit  
21 S-18, if you want to bring that up real quickly.

22 A. Okay.

23 Q. And, Mr. Blake, if you could flip to ACC177.  
24 It's about the third page in.

25 A. 177?

1 Q. Yes. And I believe the second to last name is a  
2 Mr. And Mr. Don Zeleznak?

3 A. That's correct.

4 Q. Is that the same Don Zeleznak from Grace  
5 Communities --

6 A. Yes, it is.

7 Q. Okay. How long had Mr. Zeleznak been a client  
8 of yours? Do you recall? Or when they first became a  
9 client, if you recall.

10 A. After we did the projects. After we started the  
11 projects.

12 Q. Do you remember what year that was, roughly?

13 A. Probably 2006, 2007.

14 Q. Okay. And so you had a pretty good overview of  
15 his financial background and history?

16 A. Yes, I did.

17 Q. Okay. Now, would that, you know, knowing  
18 Mr. Zeleznak's financial background and history, did  
19 that give you additional comfort to do the real estate  
20 investments or transactions?

21 A. Absolutely.

22 Q. Did you ever --

23 A. But in all fairness, I mean, I knew that before  
24 he became a client.

25 Q. Okay. And he had a pretty high net worth, then,

1 I take it?

2 A. Yes, sir.

3 Q. Okay. Did you ever state or make a general  
4 statement to any of the investor clients that  
5 Mr. Zeleznak had such a high net worth that he could  
6 guarantee the investments?

7 A. Well, he didn't guarantee Longest Drive, the  
8 three projects.

9 Q. Okay. But did you ever make that statement to  
10 any of the, your, the clients or the other LLC investors  
11 that Mr. Zeleznak had a high net worth or that he could  
12 guarantee the investment?

13 A. Not that he could guarantee the investment.

14 Q. Okay. Now, we talked about Pam Pont invested, I  
15 believe, \$50,000 in Romeoville?

16 A. That's correct.

17 Q. And do you recall that back in 2007, when  
18 Ms. Pont came to you to invest that \$50,000, did she  
19 discuss what her risk tolerance and her investment  
20 objectives were?

21 A. Yes.

22 Q. Do you remember whether or not she stated to you  
23 that she wanted to be in low risk and income producing  
24 investments?

25 A. She did not state that.

1 Q. Okay.

2 A. And it's documented what her risk tolerances  
3 were in her, her, her, what I sold to her.

4 Q. Do you remember what her risk tolerance was  
5 then?

6 A. Growth. Growth.

7 Q. Growth. Okay.

8 So you disagree if she were to testify that she  
9 wanted to take minimum risk?

10 A. I absolutely -- yes.

11 Q. And were there any other investments that you  
12 had discussed with Ms. Pont for the \$50,000 besides  
13 Grace Communities or Romeoville? Do you recall?

14 A. Her \$50,000 was already invested with me.

15 Q. But do you recall discussing any other  
16 investment projects, or anything like that, besides  
17 Grace Communities and Romeoville?

18 A. Mrs. Pont specifically wanted to invest in real  
19 estate and was going to buy houses and flip them.

20 Q. So, so no, you just discussed Romeoville then?

21 A. Correct.

22 Q. Okay.

23 ALJ STERN: Excuse me. Mrs. Pont, was she an  
24 acquaintance of yours, or did one of the four or three  
25 other Longest Drive, or somebody else in Longest Drive,

1 introduce her to this?

2 THE WITNESS: She was a client of mine that  
3 through a divorce got a pretty sizable settlement, and  
4 through the years my firm did a lot of pro bono work for  
5 her family, and especially for her dad and her dad's  
6 estate.

7 Pam Pont was living with a gentleman that was a  
8 painter and a contractor, and she approached me about  
9 what did I think about, you know, buying houses and  
10 flipping them in that type of a market. And I gave her  
11 what my thoughts were, and then she went back and  
12 discussed them with Dennis and came back and said, what  
13 other alternative real estate should we be looking at.  
14 And I set up a meeting to go to their house and meet  
15 with them.

16 ALJ STERN: Okay. Go ahead, Mr. Huynh.

17 MR. HUYNH: Thank you, Your Honor.

18 BY MR. HUYNH:

19 Q. Now, Mr. Blake, do you also recall that, you  
20 know, after -- let me see if I can confirm a general  
21 timeframe for you -- but after it was disclosed that  
22 Grace Communities or Romeoville were experiencing some  
23 financial difficulties, were you aware that Ms. Pont  
24 attempted to contact one of the owners of Grace  
25 Communities, I believe Jonathon Vento?

1 A. I was not. I was not.

2 Q. Okay. Do you recall ever telling Ms. Pont,  
3 after she attempted to reach Grace Communities, to not  
4 contact them and that all communications should go  
5 through you?

6 A. I was aware that she contacted Grace  
7 Communities. But that's typically what happened is that  
8 somebody would call me and I would contact Grace. But  
9 we very rarely had calls like that.

10 Q. So, but did you ever specifically tell her not  
11 to contact them, that all communications had to go  
12 through you?

13 A. I did not.

14 MR. HUYNH: Okay. Your Honor, I don't think I  
15 have any further questions for this witness at this  
16 time.

17 ALJ STERN: Okay. Mr. Salcido, do you want to  
18 do any redirect or, and/or your other exhibits?

19 MR. SALCIDO: I think the witness is here.

20 ALJ STERN: How much redirect do you think you  
21 have?

22 MR. SALCIDO: Just about the new exhibits, so I  
23 can wait to do that now. I don't have any redirect on  
24 what Mr. Huynh brought up.

25 ALJ STERN: Okay. So we'll just do the redirect

1 or the new exhibits or whatever you have. I'd just as  
2 soon get Mr. Salcido's questions over and then we'll  
3 deal with, you know, whatever the issues are.

4 MR. SALCIDO: Okay.

5 MR. HUYNH: Your Honor, I do want to alert the  
6 court that she is in the audience right now, if that's a  
7 problem with the court or Mr. Salcido.

8 ALJ STERN: It's up to Mr. Salcido. I'm not --

9 MR. SALCIDO: If he wants to take her out of  
10 order, that's fine with us.

11 MR. HUYNH: No. I just wanted to let you know  
12 she's here, so if you have any issue with that.

13 MR. SALCIDO: Well, she shouldn't be here. No,  
14 she should not be in the hearing room while Mr. Blake is  
15 testifying.

16 ALJ STERN: All right. You want to separate the  
17 witnesses.

18 MR. HUYNH: If I could have a minute, Your  
19 Honor, then.

20 ALJ STERN: Sure. We will go off the record for  
21 a few minutes.

22 (Recess taken from 10:30 a.m. to 10:33 a.m.)

23 ALJ STERN: All right. Returning to the record.

24 There's been a brief discussion between  
25 respondent's counsel and the Division's attorney, and



1 they both agree to stipulate to the admission of some  
2 additional updated material for Mr. Blake.

3 Exhibits R-21, R-22, R-23, 24, 25, and 26 are  
4 hereby admitted.

5 (Exhibits R-21 through R-26 were admitted into  
6 evidence.)

7 ALJ STERN: And are we ready to go?

8 MR. SALCIDO: Yes, Your Honor.

9 ALJ STERN: Okay. Go ahead Mr. Salcido.

10

11 REDIRECT EXAMINATION

12 BY MR. SALCIDO:

13 Q. Okay. Mr. Blake, I'm going to ask you a couple  
14 of questions about outside business activity  
15 questionnaires.

16 A. Okay.

17 Q. Do you remember yesterday when you said, you  
18 testified about whether or not you disclosed the Longest  
19 Drive venture to your, to your broker/dealer, right?

20 A. Yes.

21 Q. And what was your testimony?

22 A. That I did disclose it every single year until  
23 2012.

24 Q. And how did you disclose that?

25 A. I filled out outside business activities online.

1 Q. Okay. And from what year to what year?

2 A. From 2002 to 2012.

3 Q. Okay. And let's look at R-21. Do you have that  
4 in front of you, sir?

5 A. I do.

6 Q. And that is a document entitled Request for  
7 Outside Business Activities Questionnaire, right?

8 A. That's correct.

9 Q. And when is it dated?

10 A. It's dated August 11th, 2009.

11 Q. Now, do you have -- you just came, you just went  
12 home after yesterday's hearing and found several of  
13 these outside business activity questionnaires, correct?

14 A. These are documents that we supplied to FINRA at  
15 FINRA's request.

16 Q. Okay. But do you have any from 2002 through  
17 2006?

18 A. I do not. They were all submitted  
19 electronically. I had no way of -- other than, 2009 was  
20 a manual year, and I don't know why that was. That  
21 wasn't mine. That was an Ameritas issue. But they were  
22 all submitted electronically.

23 Q. But my question is do you have any copies of  
24 2002 through 2008 outside business --

25 A. I have the 2002 that was submitted yesterday,

1 but I do not have 2003 to 2008.

2 Q. Okay. Thank you. So and --

3 ALJ STERN: Those were all submitted  
4 electronically?

5 THE WITNESS: Yes, sir. And you'll see samples.

6 BY MR. SALCIDO:

7 Q. Now, does this R-21 disclose the Longest Drive  
8 venture?

9 A. Yes, sir.

10 Q. And where?

11 A. Name of outside business, Longest Drive, LLC.

12 Q. Okay. And is everything on this document true,  
13 correct?

14 A. That is correct.

15 Q. It says, it says right there that you're not  
16 compensated, about 60 percent of the page down, correct?

17 A. That is correct.

18 Can I make one other point?

19 Q. Sure.

20 A. It does also disclose that I did disclose which  
21 client, which Ameritas investment clients were also in  
22 Longest Drive.

23 Q. Okay. And that's the second to last --

24 A. That's all the way at the end:

25 Briefly describe your clients or individuals or

1 entities who you interact with through this business and  
2 if they are also clients of AIC.

3 Q. Okay. I'm going to ask you to slow down and to  
4 wait for me to finish before you talk, and I'll wait for  
5 you, because the court reporter's fingers are starting  
6 on fire over there. Okay? So we need to slow down.

7 A. The last sentence was: Briefly describe your  
8 clients or individuals or entities who you interact with  
9 through this business and that they are also clients of  
10 AIC.

11 And then I have listed the names.

12 Q. And those are the names that we talked about  
13 yesterday, correct?

14 A. Correct.

15 Q. Huffman -- why don't you just say it, because  
16 your handwriting is a little --

17 A. John Huffman, Roger Woolley, Renee Resler, Dan  
18 Hinsely, Dan Gallagher, Pam Pont, Ron Blake, Pipperts.

19 Q. And then it said, under the date, it said  
20 approved previously.

21 A. Correct.

22 Q. Okay. Who wrote that?

23 A. I'm not sure.

24 Q. Did you write approved previously?

25 A. That looks like my handwriting, so I probably

1 did.

2 Q. Well, what did that mean, approved previously?

3 A. That this has been approved previously in  
4 previous years.

5 Q. By the firm?

6 A. Yes.

7 Q. Did anybody respond to this questionnaire taking  
8 issue with that statement approved previously?

9 A. Nobody took issue with anything on this document  
10 at all. It was approved.

11 Q. Let's look at R-22, please.

12 Now, would you please describe what this  
13 document is?

14 A. Sure. Upon being notified about there was a  
15 FINRA investigation regarding the Pipperts, what I did  
16 was I contacted Greg Sernett, the chief compliance  
17 officer of Ameritas Investment Corporation.

18 Q. Okay. Slow down. Could you say what the last  
19 name was again?

20 A. Greg Sernett.

21 Q. Okay.

22 A. I then flew to Lincoln and met with Greg.

23 Q. And did he ask you for a list of Longest Drive  
24 members?

25 A. But he also wanted to know the dollar amount

1 also.

2 Q. Okay. And this is a list you prepared about the  
3 Longest Drive members who were AIC clients?

4 A. Correct.

5 Q. This is 2009, right?

6 A. Correct.

7 Q. And at that time, did anybody at AIC express  
8 shock or surprise that there was an entity called  
9 Longest Drive and that you were a member of that?

10 A. No, they did not.

11 Q. Okay. I'm going to ask you now to just go a  
12 little bit out of order to R-26. And that's my mistake  
13 numbering this morning, but R-26.

14 Is everybody with me?

15 Okay. Would you please describe what this  
16 document is?

17 A. Yes. After the FINRA, the FINRA investigation  
18 for Pipperts began, Ameritas Investment Corporation  
19 repeatedly came to my office, sometimes unannounced,  
20 just to do audits on all of these clients and their  
21 files, also my business practices, to -- just were in my  
22 office all the time. In addition, I would, they were  
23 making requests for information, I was submitting  
24 requests, we were filling all the FINRA.

25 And then a year later, Cheryl Heilman was now

1 the chief -- well, she was the chief operating officer  
2 at this time, but she was about to become the new chief  
3 compliance officer, and she sent this letter to me that  
4 we had discussed.

5 Q. Okay. Now, the second paragraph discusses  
6 whether or not you had approval for these outside  
7 business activities, correct?

8 A. That is correct.

9 Q. Could you please summarize that paragraph for  
10 the judge?

11 A. It just states once again that in 2002 Bernie  
12 Breton, who was the former chief compliance officer,  
13 approved my request as a member of Longest Drive.

14 Q. And the last sentence, though, it says that they  
15 had no knowledge that your activities had expanded,  
16 right?

17 A. Correct.

18 Q. The third paragraph said that the -- I'm sorry,  
19 not the third paragraph -- but the third paragraph said  
20 that the failure to discuss the expansion had violated  
21 their policies, though, correct?

22 A. That is correct.

23 Q. And the last paragraph on the first page -- so  
24 it's one, two, three, four, five -- after you got  
25 spanked a little bit, what did it say on the last

1 paragraph there?

2 A. Through our review of materials and discussions  
3 with you, we have noted several mitigating factors that  
4 we considered in our evaluation of this matter. First  
5 we note that you did not receive any direct compensation  
6 for your role in real estate transactions. We also  
7 believe that you did not intend to deceive AIC in this  
8 matter and did not knowingly engage in securities  
9 activities away from AIC. We also made note that you  
10 took clear and specific steps so there was no doubt in  
11 your dealings with these individuals that this activity  
12 was separate and distinct from and totally unrelated to  
13 AIC.

14 Q. Okay. Do you agree with those statements?

15 A. Absolutely.

16 Q. Let's look at the next page, which is page two  
17 of this document.

18 Did -- your firm imposed some sanctions on you.

19 A. Yes, they did.

20 Q. And what were those sanctions? And they're  
21 described here on the first paragraph of this page,  
22 correct?

23 A. Yes. They suspended me for 30 days, suspension  
24 from all securities activities. Such suspension will  
25 begin September 13, 2010 and expire on October 13, 2010.



1 And I just want to clarify. I got to pick those dates.  
2 They wanted to know what wouldn't affect my business.

3 Monetary fine of \$2,500. An in-person  
4 compliance conference in Lincoln, Nebraska for further  
5 training on requirements regarding outside business  
6 activities and private securities transactions. And I  
7 did that and I completed it.

8 Resignation as co-chair of broker/dealer task  
9 force for 2010, which I did.

10 And as previously discussed, no new activity may  
11 be conducted through any entity established for real  
12 estate transactions, Longest Drive, LLCs.

13 Q. And did you comply with these?

14 A. I complied with all of them.

15 Q. Okay. And then the next paragraph says during  
16 your suspension, et cetera, et cetera.

17 Did you comply with those conditions?

18 A. Yes, I did.

19 Q. How about the next paragraph when it said you're  
20 required to provide a plan of action?

21 A. I did, I did supply a written plan of action.

22 Q. And it said you must recommit to, on the  
23 following paragraph, recommit to requesting prior  
24 written approval of each and every business activity.

25 A. That is correct.

1 Q. So that was punishment separate and apart from  
2 the punishment that FINRA imposed on you a couple of  
3 years later, right?

4 A. That is correct.

5 Q. So it said that, even though you had received  
6 approval, you did not supplement or elaborate going  
7 forward from after 2002, is that --

8 A. That's correct.

9 Q. Okay.

10 ALJ STERN: 2002 or --

11 MR. SALCIDO: From the, after 2002 through this  
12 date.

13 ALJ STERN: Okay.

14 MR. SALCIDO: Which is 2010.

15 BY MR. SALCIDO:

16 Q. Let's go to R-23, please.

17 A. Okay.

18 Q. And what's R-23?

19 A. Well, as part of the FINRA investigation, they  
20 had asked us for the same outside business activities  
21 that were asked for here. I was able to go back to  
22 Trax, which is the online system that's used for  
23 compliance through Ameritas, and they were able to  
24 supply me with the back two years, which was 2011 and  
25 2012. And this is 2011. It's the outside business

1 activities for, and if you turn to page two, it -- on  
2 the front page it lists all my outside business  
3 activities, including all the charitable work, and then  
4 on page two, it says Longest Drive, LLC. So that's  
5 already hard copied in there. And then the rest of it  
6 is answer to all the same questions.

7 And then I just want to point out on 1.17,  
8 describe your clients, individuals. The same question  
9 2009, and I have, on the record. And this was approved.

10 Q. Now --

11 A. And this was after the suspension.

12 Q. This was after the letter that we just read,  
13 right?

14 A. Correct.

15 Q. Now, what's the difference between an outside  
16 business activity versus a private securities  
17 transaction? Do you know?

18 A. I think, in my mind, an outside or a private  
19 securities transaction is where somebody is getting  
20 compensated, where somebody is soliciting, and where  
21 somebody is not disclosing it. They're providing  
22 product outside their broker/dealer.

23 With an outside business activity, it's fully  
24 disclosed. I didn't receive any compensation.

25 Q. And this includes things that are, activities

1 that are not necessarily investment related, correct?

2 A. Correct.

3 Q. Let's look at these.

4 What is this Lewis University National Alumni  
5 Board?

6 A. At the time I was on my university's alumni  
7 board. I now serve as a trustee for Lewis University,  
8 it's a Catholic university, Romeoville online. Paradise  
9 Valley volunteer policeman; for the last four years I  
10 have been a volunteer policeman for Paradise Valley.  
11 United Way of Central New Mexico Alexis de Toqueville  
12 Leadership Circle Chair. Licensed independent -- I  
13 write fixed products life insurance and long term care.  
14 Olympus Financial Advisors. And then at the time I was  
15 on the Board of Directors for First State Bank in  
16 Albuquerque, New Mexico. And then Lewis University  
17 again.

18 Q. And it also even states that they were both  
19 approved, correct, on --

20 A. Well, these were approved prior to -- you do  
21 them in waves, where you fill one out, and then you fill  
22 the next one out.

23 Q. Okay. So you disclosed charitable things, not  
24 just business things, on this outside business activity  
25 form --

1 A. Well, I'm required to.

2 Q. R-24, please.

3 A. R-24, we were able to also secure a copy of the  
4 2012 outside business activities for Longest Drive.  
5 You'll see this is in another different format. But  
6 once again, all the questions are answered the same.  
7 Once again, I put on 1.17, on the record.

8 The difference this time was in 2012 it was  
9 declined. And this was declined on November 26, 2017.

10 Q. And that's on the --

11 A. Or 2012. I'm sorry.

12 Q. Excuse me. And that's on the third page of this  
13 exhibit, right?

14 A. Correct. So it was finally declined in 2012.  
15 And then it was two days later we got the call that they  
16 didn't want me there anymore.

17 Q. Oh, that the firm --

18 A. Didn't want me there anymore.

19 Q. Okay. So it was in late November 2012?

20 A. It was the day before Thanksgiving.

21 Q. Now, let's look at the first page of this  
22 document. All right?

23 A. Yes, sir.

24 Q. It says -- let's look at 1.10. Are you there,  
25 sir?

1 A. What is the nature of this business?

2 Q. Right. And it says the businesses is inactive.  
3 Could you read that sentence?

4 A. The business is inactive since 2009, there are  
5 still three projects that need to close and then this  
6 activity will cease to exist.

7 Q. Okay. What does that mean, three projects that  
8 need to close?

9 A. Romeoville, Burr Ridge, and Deer Park were still  
10 active projects.

11 Q. And those are the ones we talked about that have  
12 not been profitable?

13 A. That is correct.

14 Q. And do the entities hold those properties?

15 A. Yes, they do.

16 Q. What is the effect of them declining this after  
17 the, the deed has been done?

18 A. I, I, I have ceased to understand their logic.  
19 I don't know.

20 Q. And this is the same project that they, projects  
21 that they had --

22 A. Previously approved, correct.

23 Q. And at least those documents before us, in 2009  
24 and 2011, right?

25 A. That is correct.

1 Q. Anything change in the meanwhile?

2 A. No, sir.

3 Q. And this was after the sanctions were imposed in  
4 September 2010, right?

5 A. That is correct.

6 Q. I'm going to switch gears just a little bit.

7 This is a minor matter, but it came up yesterday.

8 Let's look at R-25, please.

9 ALJ STERN: Did you say R-24 was declined?

10 THE WITNESS: Yes, sir. On the last page.

11 ALJ STERN: Where?

12 THE WITNESS: It says outside business activity,  
13 it says current questionnaire, and then it says title  
14 and it says Longest Drive, LLC. And if you move over to  
15 the right, it says completed, when it was completed, and  
16 then it was declined on November 29, 2012.

17 Do you see that?

18 ALJ STERN: Yes, sir.

19 BY MR. SALCIDO:

20 Q. Is that the first time this had ever been  
21 declined?

22 A. That is correct.

23 Q. Would you pull out R-25, please?

24 A. Yes, sir.

25 Q. Okay. Now, this is a series of emails, right?

1 A. Yes, sir.

2 Q. And what's the, what's the first email from you,  
3 from you to Evan Nakano?

4 A. Evan Nakano works for Patrick Burns, who I had  
5 hired for my registered investment advisor and then  
6 myself as an investment advisor representative. And  
7 yesterday it was pointed out that when it was first  
8 approved, it was Olympus Financial Advisors, LLC. What  
9 this email says, from myself to Evan: This is for the  
10 company, what about me. Also, I mistakenly listed us as  
11 an LLC. We are an Inc.

12 Q. And how much time had elapsed from the time that  
13 you got notification that the LLC had been --

14 A. I believe it was the very next day. It was the  
15 next day.

16 Q. Okay. Let's look at the second page. And  
17 what's the second page of this exhibit?

18 A. This is the one that I received on April 23rd.  
19 Olympus Financial Advisors, LLC, approval from the SEC.

20 Q. And that goes over into the following page,  
21 correct?

22 A. Yes, correct.

23 Q. When it begins with it is ordered?

24 A. Yes. It's a continuous --

25 Q. What's the last page of this exhibit?



1       A.       There's also an email that Evans sent to me that  
2       says he will amend it. And on Wednesday July 17th,  
3       2013, Firm 167141, Form ADV amendment updating basis for  
4       registration required. And it now lists Olympus  
5       Financial Advisors, Inc.

6       Q.       Is that the correct entity?

7       A.       That is the correct entity.

8       Q.       So you weren't trying to pull a fast one with  
9       the SEC though?

10      A.       Oh, no, sir. I truly admitted that I made a  
11      mistake on the email.

12      Q.       Anything else you wanted to add about the whole  
13      SEC application process with respect to Olympus?

14      A.       No, sir.

15              MR. SALCIDO: Okay. Mr. Stern, that's all the  
16      questions I have over these set of exhibits.

17              ALJ STERN: Okay. I just wanted to clarify.

18              You say on this last page, it says that Olympus  
19      Financial Advisors was Inc., and not an LLC.

20              THE WITNESS: Correct.

21              ALJ STERN: Where does it say that?

22              THE WITNESS: See where it says, under subject,  
23      and then it says Olympus Financial Advisors, Inc.?

24              ALJ STERN: Okay. Yes.

25              THE WITNESS: Okay. This is where it was

1 amended.

2 ALJ STERN: Oh, I see. Okay. All right.

3 Mr. Huynh, any questions?

4 MR. HUYNH: Yes, Your Honor. I do have just a  
5 handful of questions for Mr. Blake.

6

7 RECROSS-EXAMINATION

8 BY MR. HUYNH:

9 Q. Mr. Blake, let's go real quickly back to R-25.  
10 I think that was the last thing you were talking about.  
11 I appreciate you submitting that.

12 So that clarifies it is an Inc., but that's  
13 still the company, correct?

14 A. That is correct.

15 Q. And that's the company being registered as an  
16 investment advisory firm, correct?

17 A. That's correct.

18 Q. That's not you being approved as an investment  
19 advisor representative, correct?

20 A. In this document, that's correct.

21 Q. And, in fact, this Olympus Financial Advisors,  
22 whether it's LLC or Inc., actually terminated the  
23 registration with the SEC on, I believe, August 12,  
24 2013.

25 A. That is correct.

1 Q. Okay. So that's no longer an entity. That's --

2 A. With the SEC.

3 Q. -- with the SEC.

4 A. That's correct.

5 Q. Now, yesterday you testified, we saw in the  
6 documentation of your CRD summary that FINRA initiated  
7 an action in 2013, correct?

8 A. That is correct.

9 Q. But they actually investigated you way earlier  
10 than that, correct?

11 A. Starting in 2009, correct.

12 Q. So let's go to R-21 then, if you would real  
13 quickly.

14 A. Yes, sir.

15 Q. And what I'd like to just confirm here, under,  
16 on R-21, where it says briefly describe your duties.

17 A. Okay.

18 Q. It says, I select the projects and then monitor  
19 their progress, coordinate tax preparation, communicate  
20 with developer and investors; is that correct?

21 A. Okay. There we go. That is correct.

22 Q. Okay. So it's you selecting the project, it's  
23 stating here, correct?

24 A. Correct.

25 Q. And this form is a request for outside business

1 activity questionnaire that you submitted to the firm?

2 A. Correct.

3 Q. And this was submitted in August of 2009,  
4 correct?

5 A. That is correct.

6 Q. Coincidentally, same year that the FINRA  
7 investigation initiated, correct?

8 A. This was before the FINRA investigation --

9 Q. It's the same year as the FINRA investigation,  
10 correct?

11 A. It's before the FINRA investigation though.  
12 You're making it sound like I did this after the Pippert  
13 was filed. That's not correct.

14 Q. Okay. I don't have any proof of when FINRA  
15 began their investigation. So I apologize.

16 Now, this form here is a request, but in the  
17 bottom right-hand corner, we don't have a copy that it  
18 was actually accepted or approved by Ameritas, correct?

19 A. Not on this form, no.

20 Q. Similarly on R-22, the date of this email is  
21 9/22/09, correct?

22 A. That is correct.

23 Q. This is after the FINRA investigation, correct?

24 A. That is correct.

25 Q. So you're disclosing this only after, or as part

1 of the FINRA investigation at that point in time,  
2 correct?

3 A. No. Mr. Sernett had asked me for, not only the  
4 name, but he asked me what the dollar amounts were for  
5 the first time.

6 Q. Let me then re-ask the question.

7 This document was created after the FINRA  
8 investigation, correct?

9 A. That is correct.

10 ALJ STERN: Are these only the remaining  
11 investors in those three projects, I'm assume?

12 THE WITNESS: Yes.

13 ALJ STERN: So although there were 28 at one  
14 point or another, at the time this document was sent to  
15 Ameritas and after the FINRA investigation had started,  
16 you only had one, two, three --

17 THE WITNESS: No. But it's a different -- what  
18 he asked for was of the, of the investors in the three  
19 projects which one were Ameritas clients.

20 ALJ STERN: Oh, I see. So there may have been a  
21 couple others or --

22 THE WITNESS: Well, there's other investors that  
23 weren't Ameritas clients.

24 ALJ STERN: Oh, okay.

25 THE WITNESS: Correct. Quite a few.

1 ALJ STERN: Go ahead.

2 MR. HUYNH: Thank you, Judge.

3 BY MR. HUYNH:

4 Q. And, similarly, Mr. Blake, R-23 and 24, those  
5 are outside business activity forms that you submitted  
6 for 2011 and 2012, respectively, right?

7 A. That is correct.

8 Q. And that was, again, after the FINRA  
9 investigation occurred, correct?

10 A. Correct.

11 Q. Take a quick look at R-26 for me, then. And I'd  
12 like to focus in on that second paragraph on page one of  
13 this September 3rd, 2010 dated letter. Addressed to  
14 you, correct?

15 A. Correct.

16 Q. And the second half of that second paragraph, is  
17 this Cheryl Heilman the COO, or chief operating officer  
18 of Ameritas?

19 A. That's correct.

20 Q. Okay. She's the one who authored and submitted  
21 this letter to you?

22 A. Yes, she did.

23 Q. Okay. And in her letter to you, in this second  
24 half of that second paragraph, she writes: Our review  
25 found no evidence of any approval by Carillon or AIC for

1 any activity beyond personal investments in real estate.

2 Is that correct?

3 A. That's correct, what it says.

4 Q. In fact, until we began our review of materials  
5 associated with the recent FINRA inquiry, AIC had no  
6 knowledge that your activities had expanded beyond your  
7 approval, personal investments in real estate, correct?

8 A. That's correct.

9 Q. Second, or the third paragraph there:

10 Sections 2.20 and 2.25 of AIC's policies and  
11 procedures manual clearly outline the approval  
12 requirements for outside business activities and private  
13 securities transactions. Your failure to request review  
14 and approval of your expanded activities relative to  
15 real estate investing has violated these policies.

16 Correct?

17 A. That is correct.

18 Q. And in the next one she states that AIC believes  
19 that your activities could be deemed private securities  
20 transactions, correct?

21 A. That's correct.

22 Q. Because you failed to request review and  
23 approval of your expanded real estate activities, AIC  
24 was unable to conduct a proper review to make a  
25 determination as to the status of the transactions.

1 Correct?

2 A. That's correct.

3 Q. All right. And I know Mr. Salcido spoke about  
4 the final paragraph there. And I'd like to, again, key  
5 in on where it stated: We also believe you did not  
6 intend to deceive AIC in this matter, and did not  
7 knowingly engage in securities activity away from AIC.

8 Is that correct?

9 A. That's correct.

10 Q. They're not saying you didn't, they're just  
11 saying they acknowledge you maybe didn't knowingly do  
12 it, because your position at the time was you didn't  
13 believe or realize these were private securities  
14 transactions, correct?

15 A. That's still my belief, although everybody tells  
16 me it is, so, correct.

17 Q. Okay. And on the second page of this, the last  
18 bullet point at the top there, she states: As  
19 previously discussed, no new activity may be conducted  
20 through any entity established for real estate  
21 transactions. And she's got Longest Drive, LLC in  
22 parenthesis, correct?

23 A. Correct.

24 Q. All right. And you actually were suspended  
25 30 days and fined \$2,500, correct?



1 A. That's correct.

2 Q. And that's because the firm did make a  
3 determination, though you might not have knowingly, you  
4 did violate firm policy, correct?

5 A. That's correct.

6 Q. And, in addition, you were here yesterday when  
7 we talked about some of the alerts and the descriptions  
8 of selling away, correct?

9 A. Yes.

10 Q. And were you also present when part of the  
11 conversations through, even Ameritas I believe, or  
12 Carillon, they stated commission or compensation is not  
13 a requirement for a private securities transaction?

14 A. That document that's referencing to is dated in  
15 2011.

16 Q. But you were present when we read that into the  
17 record, correct?

18 A. It was dated 2011, and I'm well aware of it,  
19 yes.

20 Q. And it stated there that commissions isn't a  
21 requirement for private securities transactions,  
22 correct?

23 A. Correct. I learned that in 2011.

24 MR. HUYNH: Thank you. I have no further  
25 questions, Your Honor.

1 EXAMINATION

2 BY ALJ STERN:

3 Q. Okay. And you were terminated, I guess --

4 A. February 28th, 2013.

5 Q. You stayed with Ameritas until that date?

6 A. Correct. And then they asked me to retire.

7 Q. February 28, 2013?

8 A. Correct, sir.

9 Q. Okay. But then, so that's a little over three  
10 years beyond the date of that letter from Ms. Heilman.

11 A. Correct.

12 Q. Okay. And was that after the order from FINRA?

13 A. It wasn't after the order, but it was during the  
14 FINRA investigation.

15 Q. Okay. And the order from FINRA was in November,  
16 or something, of 2013, is that -- or October?

17 A. It was March.

18 Q. Or March.

19 A. March of 2013. So it was right before.

20 Q. When was the settlement?

21 A. In September 9th of 2013.

22 ALJ STERN: Oh, I see. Okay. All right.

23 Anything else, Mr. Salcido?

24 MR. SALCIDO: No, Your Honor.

25 ALJ STERN: Okay. Thanks, Mr. Blake.

1 All right. You have an additional witness. How  
2 much direct do you have with her?

3 MR. HUYNH: Your Honor, I would anticipate it  
4 would be, maybe 20 minutes worth or so.

5 ALJ STERN: Okay. I think I'll let her testify  
6 since we're dealing in matters maybe related to welfare,  
7 et cetera.

8 Do you want to call her?

9 MR. HUYNH: Yes, Your Honor. If I could just...

10 MR. SALCIDO: Before Ms. Pont comes in -- could  
11 you close the door?

12 Could we stay on the record for just a second?

13 ALJ STERN: Sure.

14 MR. SALCIDO: Okay. Ms. Pont filed a lawsuit  
15 against Mr. Blake. That lawsuit has been settled,  
16 settlement documents are in the process of being signed,  
17 a settlement check is on the way.

18 MR. BLAKE: Not from me.

19 MR. SALCIDO: Just -- and I don't know that  
20 she's told her lawyers that she is here testifying. And  
21 I don't know that she has to, but I'm just saying, I'm  
22 putting that on the record. I'm going to ask her about  
23 it. And I think, you know, she's agreed to take a  
24 certain amount of money and it was supposed to be  
25 confidential.

1           Now, obviously those things don't override a  
2 Division subpoena or a Division request. So I'd like to  
3 know if she volunteered, or if they got a subpoena or a  
4 request and if they got her lawyer, her lawyer knows  
5 about it. Because she's represented, and they should be  
6 dealing through her lawyer.

7           ALJ STERN: That's a good point. I mean, it's  
8 not my, not my problem. I mean, it's more her problem.

9           MR. SALCIDO: Right. I understand that. But  
10 I'm just saying, I'm going to bring that up, and I'm  
11 wondering if that should be brought to her attention  
12 before she testifies.

13          ALJ STERN: Well, maybe Mr. Huynh can  
14 enlightened us.

15          MR. HUYNH: Your Honor, we did not subpoena  
16 Ms. Pont. She's agreed to be here voluntarily. And,  
17 according to Ms. Pont, she did contact her attorney who  
18 advised her testifying here would not violate the terms  
19 of her settlement agreement. That's what I'm acting on,  
20 as she told me, and that's the information I have before  
21 me.

22          MR. SALCIDO: That's fine. I just wanted to  
23 know if it would have been more fair for her if I would  
24 do some sort of voir dire to tell her before she got on  
25 the record and did something. But if she tells Paul

1 that she's spoken with her lawyer and he signed off on  
2 it, I mean, I --

3 ALJ STERN: You can still question her though.

4 MR. SALCIDO: Sure. Of course I can.

5 ALJ STERN: Okay. If you want to voir dire you  
6 can.

7 MR. SALCIDO: I don't think that's necessary. I  
8 believe Paul.

9 ALJ STERN: Okay, Mr. Huynh, do you want to get  
10 your witness in here so we can get this finished?

11 MR. HUYNH: Yes.

12

13 PAMELA TERRY PONT,  
14 called as a rebuttal witness on behalf of the Division,  
15 having been first duly sworn by the Certified Reporter  
16 to speak the truth and nothing but the truth, was  
17 examined and testified as follows:

18

19 DIRECT EXAMINATION

20 BY MR. HUYNH:

21 Q. Good morning, Ms. Pont.

22 A. Hi.

23 Q. Could you state your full name for the record?

24 A. Pamela Terry Pont.

25 Q. And what city and state do you reside in?

1 A. Phoenix, Arizona.

2 Q. And how long have you been a resident of  
3 Phoenix?

4 A. About 30 years.

5 Q. All right. You're here today regarding a  
6 matter, or a transaction you may have conducted with  
7 either Longest Drive, LLC and Mr. Michael Blake.

8 Are you aware of that?

9 A. Yes.

10 Q. Do you remember sometime in 2007 coming into  
11 roughly \$50,000 to invest?

12 A. I had that in my account.

13 Q. So in that timeframe of 2007, did you have any  
14 discussions with Mr. Blake about how to invest that  
15 money?

16 A. I went to his office, very upset, and told him  
17 that this is all the money I have left, what can I do  
18 with it to make it grow.

19 Q. Okay.

20 A. And that's when he told me about the investment.

21 Q. And which investment did he talk to you about?

22 A. Romeoville.

23 Q. Did you have a discussion with Mr. Blake or --  
24 let's take a step back.

25 Do you remember what months, or specifically in

1 2007 when you went to see him?

2 A. It was in the fall.

3 Q. Okay. And at that point in time were you  
4 already a client of his? Or how did you know Mr. Blake  
5 prior to that?

6 A. Yes.

7 Q. How did you know him?

8 A. Our children went to school together.

9 Q. Were you an investment client of his before  
10 that?

11 A. I started with him in 2003.

12 Q. Okay. So in the fall of 2007, when you went to  
13 speak to Mr. Blake, was there any discussion on what  
14 your risk was or what kind of investments you were  
15 wanting to invest that \$50,000 in?

16 A. Well, he knew that I was a conservative person,  
17 and he only had me in annuities. And my money was  
18 dwindling down, and that was the last of my money, so...

19 Q. Now, when you say he knew, why would he have  
20 known that?

21 A. Because when I hired him in 2003, I told him  
22 that I was conservative.

23 Q. Between 2003 and 2007 did you ever change that  
24 investment objective or profile?

25 A. No. I'm not a risk taker.

1 ALJ STERN: Ma'am, a few minutes ago you said  
2 you wanted to invest your money because you wanted to  
3 make it grow.

4 THE WITNESS: Right.

5 ALJ STERN: So if you're not a risk taker and  
6 your money was in annuities, which are, I think  
7 generally regarded as conservative, why did you say you  
8 wanted to make it grow?

9 THE WITNESS: Well, I don't know anything about  
10 the industry. I'm not knowledgeable on it. But I just  
11 was so upset that my money was dwindling down, and I  
12 didn't work, so --

13 ALJ STERN: What do you mean your money was  
14 dwindling down? Why --

15 THE WITNESS: Well, when I went with him, when I  
16 hired him in 2003, I had like \$200,000, and then I was  
17 down to \$50,000.

18 ALJ STERN: Well, is that because the annuities  
19 went down in value?

20 THE WITNESS: I don't know. I just trusted him  
21 to take care of things. I spent some money. I bought a  
22 home. I have three children that I was taking care of.  
23 But my money was just dwindling down, and I was very  
24 upset, very distraught, and I went in asking him what I  
25 could do with this to make it grow. I didn't know what,



1 I mean, he knew I was conservative, but I didn't know  
2 how we could make it grow.

3 ALJ STERN: Okay. Go ahead, Mr. Huynh.

4 BY MR. HUYNH:

5 Q. Now, was a set income stream important to you?

6 A. What do you mean?

7 Q. Well, to get like, you know -- let me take a  
8 step back.

9 Prior to this, you mentioned you were mainly  
10 invested in annuities; is that correct?

11 A. Well, that's what he was licensed to do, I  
12 guess.

13 Q. Okay.

14 A. I thought he was a financial advisor, but when I  
15 found out, he was only licensed to do annuities.

16 Q. Now --

17 A. That's all I knew. I didn't know anything about  
18 it. That's what he put me in, and that's all I knew.

19 Q. And when he was managing your original \$200,000,  
20 were you getting monthly or quarterly interest payments  
21 from whatever he had put you in? Do you recall?

22 A. I was getting statements, but I don't recall  
23 exactly -- I mean, it would go up and down, I guess.

24 Q. Okay.

25 A. I mean, I didn't quite understand it all. I

1 would go into him and ask him to explain things to me,  
2 but I wasn't clear on things.

3 Q. And so was it important to you to then, you  
4 know, preserve that \$50,000 then?

5 A. Absolutely.

6 Q. And did you let Mr. Blake know this?

7 A. Yes.

8 Q. Now, when you had this conversation with  
9 Mr. Blake, what did he suggest, or did he suggest any  
10 particular investment products for you?

11 A. He just brought up the Romeoville investment,  
12 medical building.

13 Q. And is that a real estate investment?

14 A. Yes.

15 Q. Have you, or did you do any real estate  
16 investment before that?

17 A. Never, except buying a house with my husband.  
18 And then my, on my own I bought a house.

19 Q. Were you aware of what real estate investing  
20 took -- you know?

21 A. No. I have never done that on my own before.

22 Q. So when Mr. Blake started talking about  
23 Romeoville, did he talk about what potentially you could  
24 profit from or what you might be able to get if you  
25 invested with Romeoville?

1 A. Yes.

2 Q. What did he tell you?

3 A. He told me I'd get anywhere from 30,000 to  
4 50,000 within two years.

5 Q. Did he offer you any other suggested products,  
6 or any other type of investments?

7 A. No.

8 Q. Now, you mentioned you had this conversation  
9 with Mr. Blake in his office. Which office are you  
10 talking about?

11 A. It was on Shea and, Shea and Tatum office.

12 Q. In the Scottsdale office?

13 A. Yeah. I guess. I don't know if that's  
14 considered Phoenix or Scottsdale.

15 Q. Okay. And while you were in his office, was  
16 there any, you know, discussion, or did you have any  
17 inkling that this was more of a conversation between  
18 friends and not as his role as investment advisor for  
19 you?

20 A. Well, he was my advisor.

21 Q. Now, when you had that discussion with  
22 Romeoville, did you decide to make the \$50,000  
23 investment on that day? Do you recall?

24 A. Yeah.

25 Q. Do you remember getting any documentation on

1 that day then?

2 A. I just received one piece of paper to sign that  
3 I was investing \$50,000.

4 Q. Did you read closely what that piece of paper --

5 A. There wasn't much. It just said Romeoville  
6 \$50,000, and I signed it.

7 Q. Do you remember getting a packet at that time  
8 describing the Romeoville project, the risk of it, the  
9 returns, anything like that?

10 A. No.

11 Q. Do you remember getting a subscription agreement  
12 for Romeoville, or a document called a subscription  
13 agreement?

14 A. No.

15 Q. Do you remember receiving a document called a  
16 private placement memorandum for Romeoville?

17 A. No.

18 ALJ STERN: Do you know what a private placement  
19 memorandum is?

20 THE WITNESS: No.

21 ALJ STERN: Do you know a magazine that says  
22 Romeoville on it at all?

23 THE WITNESS: I just got a few pieces of paper  
24 showing pictures of what they did here in Phoenix and  
25 what the project was going to look like.

1 ALJ STERN: Okay. Go ahead, Mr. Huynh.

2 BY MR. HUYNH:

3 Q. Now, during -- or for your \$50,000 investment,  
4 did you know that it was going to be made out to Longest  
5 Drive or what Longest Drive was?

6 A. No. I didn't know what Longest Drive was. I  
7 knew that it was part of him, but I thought it was like  
8 a part of Ameritas, and his, I mean, he worked for  
9 Ameritas, so that's, I just figured it was all part of,  
10 you know -- again, I wasn't aware of every detail.

11 Q. Okay. Did you get any documents related to  
12 Longest Drive, LLC?

13 A. What do you mean documents?

14 Q. Well, let me ask you this.

15 Did you ever receive a, say, an operating  
16 agreement for Longest Drive, LLC?

17 A. What is that?

18 Q. A document that may have, might be titled, you  
19 know, operating agreement about how the limited  
20 liability company is going to be run.

21 A. Not that I'm aware.

22 Q. Who the members of the limited liability company  
23 are?

24 A. Not that I'm aware of.

25 Q. Did Mr. Blake make any, say anything else about

1 the Romeoville project to, to convince you, or to sway  
2 you to invest into it?

3 A. Well, I was excited because I thought I could  
4 double my money, so, within two years, so I was excited.  
5 So that's why I did it.

6 Q. Now, you mentioned some newsletters and  
7 documents, and so forth like that.

8 Was that at this meeting or at a later point in  
9 time you received those?

10 A. I don't remember. I mean, you know, it was over  
11 a period of maybe a month or two.

12 Q. Okay.

13 A. I was just desperate to try to figure out how --  
14 because I didn't work, and I had a mortgage and three  
15 kids and, you know, bills to pay. So I was getting  
16 desperate.

17 Q. So after you invested in Romeoville, did you  
18 have any other part or role in the development or any --  
19 well, let me ask.

20 Did you have any role in the investment or  
21 development of Romeoville, the project?

22 A. What do you mean? Did I --

23 Q. Did you participate in any, like overseeing, in  
24 any of the development or anything?

25 A. I never went there. It was in Chicago. I never

1    went there.  He was the spokesperson for it, and he said  
2    he would go there and visit and it was doing well.

3       Q.     Did he describe that he had some background or  
4    history in the Illinois area?

5       A.     No.  Not that I'm aware of.

6       Q.     Now, with the Romeoville investments, did you  
7    ever have a voice in when they should break ground, how  
8    much they should sell the property for, or anything like  
9    that?

10      A.     No.

11      Q.     So other than giving the money over to either  
12   Longest Drive or Mr. Blake, you didn't have any other  
13   role in the transaction?

14      A.     No.

15      Q.     How would you find out the status of Romeoville?

16      A.     I would call him and ask him.

17      Q.     And him being who?

18      A.     Michael Blake.  I would call and ask how it was  
19   doing.  He sent a few letters, you know, stating how it  
20   was doing, and that was it.

21      Q.     Now, at some point in time, did you get informed  
22   that the Romeoville project was having financial  
23   difficulties?

24      A.     In 2008, when the market crashed, I guess.  You  
25   know, things were down then.  He sent a letter stating

1 that things, you know, were down, and in 2009 things  
2 were looking up again. The suites were selling and  
3 things were looking good.

4 Q. And did you ask Mr. Blake for a return of your  
5 \$50,000?

6 A. Yes. Several times.

7 Q. Did you ever get that return?

8 A. No.

9 Q. Did you ever get any profits or interest  
10 payments from the Romeoville project?

11 A. Nothing.

12 Q. Okay. So after you found out of the financial  
13 difficulties Grace Communities was having, did you  
14 attempt to contact Jonathon Vento or Grace Communities?

15 A. Yes.

16 Q. And what happened when you attempted to contact  
17 Mr. Vento?

18 A. I received a piece of paper originally, and it  
19 had their information on it. So I contacted the  
20 person -- I have her name and number -- and I contacted  
21 her and asked her if there was a way that I could  
22 receive my 50,000, and she could please have them  
23 contact me, I would like to speak with them. And --

24 Q. And them being Grace Communities or --

25 A. Yes.



1 Q. -- Mr. Blake?

2 A. Yes. Not Mr. Blake. It was Grace Communities,  
3 Vento and -- I don't have, I don't remember all their  
4 names. It was -- there was three of them or something,  
5 two or three of the men that were the investors.

6 And the secretary said, she took my name and  
7 number, but then five minutes later I got a phone call  
8 from Mr. Blake telling me never to contact them, that he  
9 was their representative, to only communicate with him  
10 at the time.

11 Q. And did you ever make any additional contacts  
12 with Grace Communities after that?

13 A. Not with them, no. Not with Grace Communities,  
14 no.

15 MR. HUYNH: Those are the only questions I have,  
16 Your Honor.

17 ALJ STERN: Okay. Thanks.

18 Mr. Salcido, any questions for the witness?

19 MR. SALCIDO: Yes, I have a few. May I sit,  
20 because I have some things on my computer screen --

21 ALJ STERN: Sure.

22 MR. SALCIDO: -- that I want to talk to you  
23 about.

24 ///

25 ///

1 CROSS-EXAMINATION

2 BY MR. SALCIDO:

3 Q. Ms. Pont, can you hear me okay?

4 A. Yes.

5 Q. My name is Michael Salcido. I represent  
6 Mr. Blake.

7 Mr. Miller knows you are here today?

8 A. Yes.

9 Q. Okay. Now, you, you met Mr. Blake about 2003,  
10 right?

11 A. Yes.

12 Q. Your kids went to school with one of the Blake's  
13 kids, right?

14 A. Yes.

15 Q. And that you hired him as your financial advisor  
16 around March of 2003, right?

17 A. Somewhere around there, I guess.

18 Q. And you opened accounts through Carillon  
19 Investments, which later became Ameritas, right?

20 A. Yes.

21 Q. And you invested about \$700,000 through  
22 Mr. Blake and Ameritas starting from April 2003 going  
23 forward, correct?

24 A. Well, I had to buy a house with that, yeah.  
25 Yes, I guess -- I don't recall the exact amount. Yes.

1 Q. It was a sizable amount because you had a  
2 divorce settlement, right?

3 A. Yes.

4 Q. And so you didn't -- your brokerage account  
5 stated that your investment objective was growth,  
6 correct?

7 A. I don't know. I don't know what that means.

8 Q. Now, money doubling in two years is not, is not  
9 a conservative investment objective is it?

10 A. I don't know.

11 Q. Really?

12 A. I have never invested before.

13 Q. You really don't know that there's a correlation  
14 between risk and reward?

15 A. I really don't know. I'm very naive about this.

16 Q. So do you think it's just a coincidence that CDs  
17 pay 1 percent a year and junk bonds pay more?

18 A. I was very unaware of all this. I don't know  
19 anything about investing.

20 Q. Well, let me ask you.

21 Why would anybody buy a CD for 1 percent a year  
22 if you can buy an investment that's equally safe that  
23 pays you 50 percent a year?

24 A. I didn't. I trusted Michael Blake to --

25 Q. That wasn't my question. Why --

1 A. I don't know.

2 Q. -- would anybody --

3 ALJ STERN: Excuse me, Mr. Salcido. She's  
4 trying to answer --

5 MR. SALCIDO: Okay.

6 ALJ STERN: -- and you're trying to interrupt  
7 her.

8 MR. SALCIDO: I apologize.

9 ALJ STERN: And I think from the questioning I  
10 have heard --

11 MR. SALCIDO: I don't need an answer.

12 ALJ STERN: She doesn't know what it is between  
13 risk and rewards. So continue.

14 BY MR. SALCIDO:

15 Q. What is your education?

16 A. High school.

17 Q. Okay. And did you ever work outside the home  
18 other than being a mom, which I realize is a lot of  
19 work?

20 A. I got a job five years ago in the Paradise  
21 Valley School District.

22 Q. Now, you paid cash for two homes, correct?

23 A. Yes.

24 Q. You drove a Mercedes, correct?

25 A. An old one.

1 Q. It was always old?

2 A. No. I bought it new.

3 Q. Okay. And you got child support and college  
4 expenses from your ex-husband, correct?

5 A. Yeah. Not college expenses, no.

6 Q. Okay. You had a boyfriend living with you that  
7 was helping you pay living expenses, correct?

8 A. No.

9 Q. He wasn't helping you?

10 A. No, he wasn't. Not for the first four or  
11 five years. I was paying for everything.

12 Q. Okay. How about after that?

13 A. He is helping me now, because financially I  
14 can't afford anything. I can hardly afford my bills  
15 right now.

16 Q. And you, you received K-1s every year, correct?

17 A. From what?

18 Q. From the Romeo investment?

19 A. No. I only received one in 2009.

20 Q. Okay. When did you make the phone call to  
21 Grace?

22 A. I don't remember.

23 Q. You don't remember what year at all?

24 A. It was -- I don't know. I really, I don't know.  
25 Maybe in 2011, '12, somewhere around there. I don't

1 know.

2 MR. SALCIDO: Okay. I have no more questions.

3 Thank you.

4 ALJ STERN: Okay. Any redirect, Mr. Huynh?

5 MR. HUYNH: Just briefly, then.

6

7 REDIRECT EXAMINATION

8 BY MR. HUYNH:

9 Q. So, Mrs. Pont, how do you, how would you  
10 describe yourself as an investor, in terms of your  
11 experience?

12 A. None.

13 Q. Okay. And so what was your reliance level and  
14 trust in Mr. Blake, then, with your money?

15 A. I trusted him just to make the right decisions  
16 for me. I didn't know what to do.

17 Q. And was your feeling then, that if -- do you  
18 have a feeling of whether or not you believe Mr. Blake  
19 should continue on to be, say, an investment advisor --

20 MR. SALCIDO: I object to that question.

21 ALJ STERN: That's -- I don't know in terms of  
22 what, how she is qualified to make an answer on that  
23 question.

24 MR. HUYNH: I'll withdraw it, Your Honor. I was  
25 just asking for her to opine, because I think

1 Mr. Salcido elicited the same question from his client  
2 yesterday.

3 MR. SALCIDO: It's his license.

4 ALJ STERN: Again, I don't think it's, you know,  
5 obviously there's some acrimony here when someone is not  
6 able to recover an investment several years ago, and I  
7 believe I heard you gentlemen discuss some sort of  
8 litigation. So I don't think it's --

9 MR. HUYNH: Fair enough. I will withdraw that.  
10 I have no further questions. Thank you,  
11 Ms. Pont.

12 MR. SALCIDO: May I just ask two more, Your  
13 Honor?

14 ALJ STERN: Yes.

15

16 RECROSS-EXAMINATION

17 BY MR. SALCIDO:

18 Q. Okay. You filed a lawsuit against Mr. Blake,  
19 correct?

20 A. Yes.

21 Q. And that lawsuit recently settled, correct?

22 A. Yes.

23 Q. Okay. And it settled for about \$30,000, right?

24 A. Yes.

25 MR. SALCIDO: Thank you.

1 ALJ STERN: That's it?

2 Okay. Ma'am, thank you. You're excused.

3 THE WITNESS: Okay.

4 ALJ STERN: All right. Mr. Huynh, any more  
5 witnesses?

6 MR. HUYNH: No additional witnesses, Your Honor.  
7 The State rests.

8 ALJ STERN: Okay. Mr. Salcido, do you have  
9 anything else?

10 MR. SALCIDO: May I have two minutes with my  
11 client?

12 ALJ STERN: Sure. We will go off the record for  
13 a few seconds here.

14 (Brief recess.)

15 ALJ STERN: Back on the record.

16 Okay. Mr. Salcido, what's your --

17 MR. SALCIDO: We are ready to rest. But I  
18 thought you had some questions for Mr. Blake. I don't  
19 know if you --

20 ALJ STERN: How could you rest if you have some  
21 more questions?

22 MR. SALCIDO: No. You. I thought you had some  
23 more questions.

24 ALJ STERN: No. I think I have heard about as  
25 much as I can hear in this matter.



1 MR. SALCIDO: Okay.

2 ALJ STERN: Anything else? You're done with  
3 your presentation? No more witnesses?

4 MR. SALCIDO: Yes, Your Honor.

5 ALJ STERN: Mr. Huynh, you've had your shot with  
6 all your witnesses and exhibits, et cetera?

7 MR. HUYNH: Yes, Your Honor.

8 ALJ STERN: Okay. Are there any closing  
9 statements you gentlemen wish to make? Because I do,  
10 I'm going to ask you that you file briefs, because there  
11 is a debate that the applicability of the various  
12 statutes to the order by FINRA here and, et cetera,  
13 so...

14 MR. HUYNH: Yes, Your Honor, I'd like to make  
15 closing.

16 MR. SALCIDO: If we are going to do briefs, I'd  
17 just as soon waive closing.

18 ALJ STERN: Well, you can. He wants to put on  
19 his end of the show. I don't -- I assume it isn't going  
20 to be a lengthy proceeding?

21 MR. HUYNH: No, Your Honor, just a brief closing  
22 statement.

23 ALJ STERN: Okay. You can make a brief closing  
24 statement.

25 Mr. Salcido, your choice.

1 MR. SALCIDO: Okay. Well, I'm not going to let  
2 him go unanswered, of course, so I will make a brief  
3 closing too.

4 ALJ STERN: Okay. Mr. Huynh.

5 MR. HUYNH: Thank you, Your Honor.

6 As we saw throughout the two days here, there  
7 was a lot of evidence regarding what actually happened  
8 and how this outside business, or this private  
9 securities transaction really grew and expanded. And  
10 that is the key issue, and that is the area that, you  
11 know, that timeframe, '06 to '08. Counsel, respondent's  
12 counsel, put in a lot of documents and information to  
13 try to tell you hey, he always disclosed this to his  
14 firm. But that wasn't supported by the documents and  
15 the information you saw in the record. In fact, the  
16 firm's own statement to him clarified; they fined him,  
17 they suspended him, and they determined he violated firm  
18 policy by entering into private securities transactions.  
19 Now, I realize he may not have attempted to make a bunch  
20 of money himself. One of the concerns you had was  
21 getting additional commissions -- but he pooled money  
22 together. He was in it too, and as a group, they were  
23 hoping to make a profit.

24 The problem with the, the problem with the setup  
25 currently right now is that Mr. Blake came in with two

1 applications as a securities salesman and as an  
2 investment advisor representative. Mr. Salcido has  
3 alluded to they're willing to give up the securities  
4 salesman license, and we agree, that should be revoked  
5 and denied.

6 The question now is what do you want to do with  
7 the investment advisor representative application. And  
8 we believe you should deny that also. The grounds are  
9 there. It's simply is there an order by a  
10 self-regulatory organization? Yes, we have one of  
11 those, it's FINRA. Is he subject to it and a suspension  
12 of greater than six months? Yes, he is. In fact, he is  
13 still suspended today. That suspension will not end  
14 until October 6th of 2014.

15 And that's really the difficulty that the  
16 Division has with Mr. Salcido's suggestion that why  
17 don't you just deny him as a salesman but approve him,  
18 at the same time, as an investment advisor  
19 representative. The legislature put together that  
20 statutory grounds for a reason. If you're suspended by  
21 another regulatory agency for a material length of time,  
22 and we are talking greater than six months, then that  
23 should be grounds for this Commission to deny them  
24 because of the underlying conduct.

25 We don't have to go into the underlying conduct,

1 but some of it, obviously, came out. And at the same  
2 time, the bigger concern that the Division has is if you  
3 approve him as an investment advisory representative,  
4 especially now, he is getting access to the same clients  
5 that another regulator in the securities industry has  
6 already banned him from even transacting on their behalf  
7 in any securities trades. Yet, as an investment  
8 advisor, which holds a fiduciary duty, which has a  
9 higher standard, which is supposed to take in the entire  
10 picture of a client, but would get access to those same  
11 exact clients. Those two grounds are high policy  
12 grounds to deny his application as an investment advisor  
13 representative.

14 There is also discussion about, you know, oh the  
15 SEC approved him; oh, his firm is willing to take him  
16 on. And as we saw, the SEC did not approve him. They  
17 approved an entity that could go out and hire actual  
18 licensed and registered investment advisor  
19 representatives.

20 MR. SALCIDO: Objection. You can't lie on a  
21 closing statement. There's a document in there that  
22 says he was approved personally by the SEC. You can't  
23 make stuff up in a closing statement.

24 ALJ STERN: Mr. Salcido, you don't interrupt  
25 opposing counsel during closing statement. The document

1 is, says what it says on its face, and that's the end of  
2 it. Okay?

3 All right. Continue, Mr. Huynh.

4 MR. HUYNH: Thank you, Your Honor.

5 And I will reiterated. The document that we saw  
6 named an entity, a corporation, originally an LLC and a  
7 corporation. There is no mention of Mr. Blake  
8 individually; there is no documentation that shows  
9 Mr. Blake was ever admitted by the SEC as an investment  
10 advisor representative. That is not false. That is the  
11 actual evidence we have before us.

12 And the fact that a firm is willing to go take  
13 him on, yeah, we heard. He's got a client list of 130  
14 people. He has a book of business. There are financial  
15 reasons why the firm is willing to take him on. But  
16 that doesn't obviate the need for us, as a regulator, to  
17 step back and say, at this point in time is this an  
18 application that we want to approve?

19 And I'm going to ask you, based on the policy  
20 reasons, based on the facts of this case, that you deny  
21 both of his applications as a salesman and an investment  
22 advisor representative and revoke his salesman license.  
23 Thank you.

24 ALJ STERN: Okay. I'm sure you'll spell it out  
25 in your brief.

1 Mr. Salcido.

2 MR. SALCIDO: Your Honor, I agree that it's not  
3 the norm to interrupt someone in a closing statement,  
4 but it is not improper, and it can be done when somebody  
5 is misstating evidence.

6 Now, R-26, I'm sorry, R-9 is an email from the  
7 SEC to Mr. Blake personally licensing him as an  
8 investment advisor representative. And that's what  
9 Mr. Blake testified to; there's no evidence to the  
10 contrary. That is what the record says.

11 And the other thing, Your Honor, is when you  
12 quote statutes, the statute says that to deny his  
13 application as an investment advisor representative,  
14 there has to be a finding that it's in the public  
15 interest and that he's subject to an order of an  
16 administrative tribunal or SRO suspending him -- now,  
17 this a part he left out in his opening and in his  
18 closing -- it says, as registration as a broker or  
19 dealer in securities for more than six months.

20 He was not suspended as a broker or dealer in  
21 securities for more than six months. He was not  
22 suspended as a broker, I mean, or as an investment  
23 advisor representative or investment advisor for more  
24 than six months. That's what the statute says. You  
25 can't cite part of the statute.

1           Now, the other thing is if you notice when  
2 Mr. Blake was testifying about this letter from the,  
3 from Ameritas, R-26, the letter dated September 3rd,  
4 2010, I walked him through every paragraph of the  
5 letter, even the ones that hurt. You know, we talked  
6 that there were findings, and I didn't just cherry pick.  
7 Now, but the last paragraph on the first page, and this  
8 is two years before, more than two years before they  
9 really said we don't want you around anymore, and eight  
10 years after he first disclosed it. It says, several  
11 mitigating factors; didn't receive compensation; didn't  
12 intend to deceive AIC; didn't knowingly engage in  
13 securities activity away from AIC; took clear and  
14 specific steps so that there's no doubt, in the dealings  
15 and the individuals, that the activity was separate and  
16 distinct from AIC.

17           That's what AIC came up with. And AIC  
18 administered punishment, which Mr. Blake took. Then  
19 FINRA administered punishment, which Mr. Blake took.  
20 How many times do you need to get punished for the same  
21 act, Your Honor?

22           Now, the Division knew about this investigation  
23 from FINRA all throughout the process. He first applied  
24 to the Corporation Commission in May and -- as the, as  
25 the FINRA was progressing -- and Mr. Blake kept them

1 informed of it. Now, when FINRA came down with their  
2 offer of settlement in September, then the ACC decided  
3 to deny him. He kept them involved every step of the  
4 way.

5 Now, what's really a little nasty about this  
6 whole proceeding here, Your Honor, is because there is  
7 another statute that, that, that is in place here. If  
8 you deny his registration as a, his application as an  
9 investment advisor representative or as a securities  
10 representative, he can't reapply for a year. That's a  
11 statute. And, and they're going to hold him to that.  
12 So here we are. If you deny him, whenever that comes  
13 out, he can't reapply for a year. So this FINRA order  
14 that he's already seven months into it, he gets to  
15 become relicensed by FINRA in September, but if we have  
16 briefing schedules 30 days out, and then another order  
17 takes, you know, a month, two or three or six, who  
18 knows, he still doesn't have a license, and then you  
19 deny it, and he can't even reapply for another year.  
20 That one year suspension becomes a three year  
21 suspension. And that's not fair, Your Honor.

22 And when you first came in, you said this looks  
23 like a case that should have settled. It should have  
24 settled. We tried to settle it. We tried to make  
25 settlement offers here. But it's not clear why, why the



1 Division thinks that a one year suspension is not  
2 enough. I mean, FINRA suspended him for a year, and  
3 we're willing to go ahead and take the, a parallel  
4 suspension with regards to the salesman's license.  
5 Okay.

6 And the evidence shows, though, that FINRA also  
7 licensed him as a salesman after the complaint had been  
8 filed. After they knew there was an investigation,  
9 FINRA gave him a license as a salesman before the  
10 settlement. The SEC licensed one entity by mistake and  
11 one entity on purpose, and then Mr. Blake as an  
12 investment advisor representative. And then Mid  
13 Atlantic hired him to be a securities rep, knowing about  
14 the FINRA matter; hired him to be an investment advisor,  
15 knowing about the FINRA matter; imposed enhanced  
16 supervision, which Mr. Blake has agreed to be  
17 incorporated into any order granting him a license.

18 Everything we said we were going to prove, Your  
19 Honor, we have proved. The SEC approved his investment  
20 advisor representative. FINRA didn't do anything to  
21 sabotage it. And Mid Atlantic knows about the order and  
22 hired him. He did give written notice to his  
23 broker/dealer and got approval. Now, apparently, the  
24 broker/dealer and FINRA took the position that the  
25 notice wasn't expanded or supplemented and at some point

1 became insufficient. He took his medicine on that  
2 already. He didn't receive fees, commission, or  
3 compensation. He put friends and family in Longest  
4 Drive. He put his own money in Longest Drive. He  
5 didn't receive preferential treatment. He was treated  
6 no better or different than the other members. The  
7 losses and the profits were spread equally. There were  
8 11 deals. The first eight made money; the last three  
9 didn't, coinciding with the real estate market.

10 And, Your Honor, if we are going to be fair  
11 here, there is not anybody, who has been paying  
12 attention, that, that, that is really honest with  
13 themselves is not going to say that the real estate  
14 market doesn't have some play in any real estate  
15 investment that went down, whether or not there was  
16 fraud. The real estate market hurt, the real estate  
17 crash hurt real estate investments. And in this case,  
18 there is no evidence to the contrary that these deals  
19 failed for any other reason than the real estate crash.

20 But the thing is it's really irrelevant, Your  
21 Honor. Because the thing that we have been squawking  
22 about since day one is that this case should really rise  
23 and fall on that, on that FINRA order. And we said we  
24 don't want to retry it, we don't want to relitigate and  
25 stuff, yet we did.

1           If you look at the order, on its face, it says  
2 what it says, and he has a sanction, and the question  
3 here is whether that sanction is grounds for the  
4 Corporation Commission to deny or reject his application  
5 as a salesman or as an investment advisor  
6 representative.

7           And I think as we stand here before you today,  
8 we want to ask that, that the Corporation Commission  
9 doesn't need to come in like Barney Fife after the  
10 arrest has been made, pulling a bullet out of his  
11 pocket, waiving its gun around. You know, the case has  
12 been solved; the culprit has been apprehended. He got  
13 punished by his firm, he got punished by FINRA. There  
14 is no need for the Corporation to come on board and  
15 triple his sanction at this point. He's already been  
16 punished. He's being punished right now. And I don't  
17 think anybody would have a fault with the Corporation  
18 Commission if they said we are going to abide by the,  
19 FINRA's order as to the salesman, and we are going to  
20 abide by the SEC's decision as to the investment advisor  
21 representative, and we are going to impose these  
22 enhanced supervisory duties that his firm put on him.  
23 And, as Mr. Blake also testified, the investment  
24 advisory Form ADV is going to be given to everyone.  
25 They're all going to know about this. And the

1 investment public is safe. Safe as you can say about  
2 anybody that's out there licensed to sell securities  
3 being an investment advisor. I mean, if everybody that  
4 was involved in real estate investments that lost money  
5 is going to lose their license, there is not going to be  
6 anybody in this business anymore.

7 ALJ STERN: Anything else?

8 MR. SALCIDO: Questions for me?

9 No, sir. Just thank you.

10 ALJ STERN: Thank you. The one, the one  
11 question I have for you, Mr. Salcido, I just want to  
12 make sure we are talking the same statutory issue is  
13 44-1962(A)(8)?

14 MR. SALCIDO: Yes, sir.

15 ALJ STERN: Okay. I just want to make sure.

16 MR. SALCIDO: Well, and more importantly,  
17 actually, 44-3201.10.

18 ALJ STERN: And that's with respect to the  
19 investment --

20 MR. SALCIDO: That's the investment advisor one.  
21 And, in fact, that's actually more important than this  
22 one, because that's the license that he intends to use,  
23 and that's the license that's not under any suspension.  
24 And that requires a finding that it's in the public  
25 interest to deny his license, as well as he's subject to

1 an order suspending his, or revoking or denying his  
2 license as a broker/dealer, securities -- so the real  
3 important statute here is 44-3201.10.

4 ALJ STERN: Well, I'm sure you can elucidate  
5 more on it in your brief on this.

6 MR. SALCIDO: Thank you.

7 ALJ STERN: And I think at this point, today is  
8 April 23rd. Let's see. How about filing some briefs  
9 by -- are you going to want to have reply briefs? That  
10 is the question.

11 MR. SALCIDO: Do you want simultaneous, or do  
12 you want --

13 MR. HUYNH: Your Honor, I was going to suggest  
14 if it, maybe this is a situation where -- would it be  
15 beneficial if we filed, then Mr. Salcido responded to  
16 that and then we got a reply. So we could stagger it,  
17 and that way we are not arguing the same issue,  
18 potentially, multiple times.

19 ALJ STERN: Okay.

20 MR. SALCIDO: Your Honor, I would prefer  
21 simultaneous briefs, because that's, they get two briefs  
22 to my one then, and they have all the resources. And I  
23 think we all know what the issues are going to be.

24 ALJ STERN: I don't really have a big dispute  
25 with that. I like, I prefer simultaneous briefs,

1 because I just get a lot of rehashed information.

2 Let's just do simultaneous briefs. I'd say you  
3 can file them, I'll give you till July 11th. Okay?  
4 Week after the 4th of July.

5 Anything else? I think we have admitted, all  
6 the exhibits have been admitted by stipulation, and I  
7 think we're done.

8 MR. HUYNH: Your Honor, I guess just one quick  
9 one.

10 So are you going to allow replies, and if there  
11 is going to be a reply is there a timeline that --

12 ALJ STERN: No. I don't think it's necessary  
13 for reply. I mean, I think you both know, are going to  
14 argue the issues either way. I mean, just to file a  
15 reply, I think you can include it in your initial brief  
16 and cover all the materials. I mean, we're not dealing  
17 with multiple, multiple issues here. I mean, there is a  
18 lot of background material like what happened happened.  
19 Right? Well, we still have to look at the fact that  
20 there's an order floating around out there that has been  
21 issued against the respondent, and that's the main  
22 issue, so...

23 MR. SALCIDO: Excuse me, Your Honor, I guess I  
24 just have a quick question.

25 Did you want this brief to kind of be a closing

1 for all the issues, or did you want to narrow it to the  
2 statutory issue?

3 ALJ STERN: No. You write your brief, you can,  
4 you want to address things that are already done with,  
5 that's up to you. But I think you have to deal with  
6 this proceeding, why you ended up requesting a hearing  
7 in response to an action by the Division, and that's the  
8 way it is. Okay?

9 MR. SALCIDO: Thank you, Your Honor.

10 MR. HUYNH: Thank you, Your Honor.

11 ALJ STERN: Okay. That concludes today's, the  
12 proceeding. And file your briefs July 11th, by  
13 July 11th.

14 (The hearing concluded at 11:52)

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1 STATE OF ARIZONA )  
2 ) ss.  
3 COUNTY OF MARICOPA )  
4  
5  
6

7 I, KAREN L. KESSLER, RPR, Certified Reporter  
8 No. 50821 for the State of Arizona, do hereby certify  
9 that the foregoing printed pages constitute a full, true  
10 and accurate transcript of the proceedings had in the  
11 foregoing matter, all done to the best of my skill and  
12 ability.  
13

14 WITNESS my hand this 6th day of May, 2014.  
15  
16

17   
18 \_\_\_\_\_  
19 KAREN L. KESSLER, RPR  
20 Certified Reporter  
21 Certificate No. 50821  
22  
23  
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